

Chevy Chase Village Board of Managers

January 8, 2007

BOARD OF MANAGERS

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| Douglas B. Kamerow, Chair | Present |
| David L. Winstead, Vice Chair | Present |
| Susie Eig, Secretary | Present |
| Gail S. Feldman, Treasurer | Present |
| Betsy Stephens, Assistant Treasurer | Present |
| Peter M. Yeo, Board Member | Present |
| Robert L. Jones, Board Member | Present |

STAFF

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| David R. Podolsky, Legal Counsel | Present |
| Geoffrey B. Biddle, Village Manager | Present |
| Roy A. Gordon, Police Chief | Absent |
| Adventino Dasilva, Police Sergeant | Present |
| Shana R. Davis-Cook, Manager of Administration | Present |
| Michael W. Younes, Administrative Assistant | Present |

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:30 p.m. Mr. Winstead arrived at 7:40 p.m.

Approval of Minutes from the December 11, 2006 Board Meeting

Ms. Eig submitted changes, which were circulated to Board members prior to the meeting.

Ms. Stephens made a motion to approve the minutes of the December 11, 2006 Board Meeting as amended. Ms. Feldman seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. Mr. Winstead had not yet arrived. The motion passed.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Discussion followed.

Committee Reports

Building Facilities Commission

Mary Anne Tuohey, Chair of the Building Facilities Commission, stated that the Commission did not meet this month. Ms. Tuohey outlined past and upcoming events to be held in the Village Hall, highlighting those sponsored by the Committee on Children, Youth and Families. In February, the Commission will address the rental rates and the selection of conference chairs for the new room. Ms. Tuohey added that the toddler group has two new chairs, Kristen Best of 3810 Bradley Lane and Lesley McNamara of 116 Grafton Street. Discussion followed.

Brookville Road Working Group (Working Group)

Dr. Kamerow, Chair of the Working Group, reported that staff had met with all of the residents along the corridor to gain an understanding of individual concerns and to assess the level of support for the project prior to tasking *Rummel, Klepper & Kahl* (RK&K) to prepare the next level of engineering drawings to be taken to the Maryland State Highway Administration (SHA). Dr. Kamerow added that the resident meetings were largely successful, but that there is one location where inconsistencies in documented property lines require additional contact with a particular resident.

Dr. Kamerow stated that the Working Group had met in January and that they discussed whether there should be a Village-wide survey of resident interest in the sidewalk/walkway. Dr. Kamerow noted that extensive resident interest in a sidewalk/walkway for improved safety of pedestrians on Brookville Road was why the Working Group was formed, so a survey should not delay the next round of engineering work.

Dr. Kamerow stated that the current engineering plans for the sidewalk/walkway are about 10% complete. The next round would bring the plans to 30% completion and would cost approximately \$50,000. Overall, the total cost of the project is estimated at \$750,000.

Joan Churchill of 5612 Western Avenue voiced her support for the project.

George Kinter of 121 Hesketh Street asked if the \$750,000 estimate was only for engineering work. Dr. Kamerow explained the \$750,000 was for the entire sidewalk/walkway project.

Budget Committee Chair Samuel Lawrence of 100 East Lenox Street discussed budget issues regarding upcoming capital projects. Mr. Lawrence suggested that there be a presentation to the Board in February regarding possible revenues on the Village's horizon and possible capital projects involving the Village's Public Works Department and how it may relate or interact with the Brookville Road project. Discussion followed.

Dr. Kamerow made a motion to amend the FY 2007 budget to appropriate \$53,000 from reserves to the Brookville Road line item to increase the level of completion of the Brookville Road engineering plans to 30%. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Decisions on Previous Appeals

None.

Appeals

None.

Old Business

Presentation by Columbia Telecommunications Corporation

Dr. Kamerow introduced Andrew Afflerbach, Ph.D., P.E. and Dave Randolph of *Columbia Telecommunications Corporation* (CTC) to provide a briefing on current and future telecommunications services. Dr. Afflerbach stated that CTC is a public interest engineering company that works with government and other public sector agencies to assist in evaluating and planning telecommunications networks. Dr. Afflerbach added that CTC is not in any way affiliated with any particular manufacturers of equipment or service providers. A synopsis of their presentation follows:

- Currently, technology in the home is becoming more interactive with more services provided by fewer wires. These advances increase the need for more bandwidth. Fiber optic cables allow for greater bandwidth.
- Fiber optic systems are easier to upgrade because it can be done by only upgrading the equipment at the head ends. It is less likely to need to replace fiber optic cables because of the speed at which they pass data (the speed of light).
- Although satellite and wireless solutions are both less obtrusive and portable, they have major drawbacks. For example, fiber optic cables must be included in their basic systems to fill in where line of sight and tree canopy issues obstruct satellite and wireless transmissions.
- Metallic cables like copper and coaxial have limited bandwidth and speed.
- Communication companies, in conjunction with the Village, could configure a conduit system installed by the Village to support many different uses. Any system that is installed should have the capability to handle multiple service providers in the future. Installing an infrastructure that is reliable, secure and has room for expansion allows the Village to limit the amount of disruption to Village streets and green space and gives the Village greater control over its rights-of-way.
- Installation of the conduits system(s) could be coordinated with other capital projects within the Village such as sidewalk replacement and pedestrian streetlamp installation in an effort to minimize the disruption to Village rights-of-way.

Numerous questions about the impact of this technology were raised. Ms. Feldman asked for clarification on whether the conduits were empty for future building or if fiber optic cables were in place but not hooked up. Dr. Afflerbach responded that both are feasible options, however, he cautioned that one communication company's design standards for the fiber optic cables might be different from another. Mr. Winstead asked if other area municipalities have installed similar systems and are regulating these services. Dr. Afflerbach responded that Baltimore City and Philadelphia currently have conduit systems in place and lease space to the various communications and utility companies, however, not many are providing the fiber optic cable on a large scale due to individual design standards and costs. Mr. Jones asked whether joint funding programs were available. Mr. Biddle responded that an objective is to have potential system occupants like *Verizon*, *RCN* and *Comcast* contribute funding to the project.

Ralph Stephens of 11 Magnolia Parkway asked what communication companies are involved and wanted to provide fiber optic service within the Village. Dr. Afflerbach responded that currently in this area only *Verizon*, *RCN* and *Comcast*; however, *Comcast's* network is setup by using fiber optics along their main trunk lines. In the future *Comcast* would need to upgrade its network to remain competitive.

Dr. Kamerow thanked Dr. Afflerbach and Mr. Randolph for their presentation. Mr. Biddle explained that if the Board approved the CTC proposal, CTC would be tasked to work with the Village and the multiple communications companies to develop a communication network plan that would best fit the Village's needs and comply with standards and business models of *Verizon*, RCN and *Comcast*.

Helen Reed of 35 West Irving Street asked how the plan would be coordinated with regards to County master and roadway plans. Mr. Biddle responded that the installation of underground conduits would be specific to the Village and not involve the County.

Betty Tubbs of 5509 Montgomery Street asked why the Village should bear the cost for installing this new conduit system. Dr. Kamerow responded that CTC would be tasked as part of their work, to determine the most feasible financing options available to the Village and the communications companies.

Ms. Stephens asked if the Village asked CTC how long it would take to receive a concept proposal. Mr. Biddle responded that the timeframe for the first task is six (6) months. Mr. Biddle stated but that he would expect to have a concept plan available at the March Board of Managers meeting and would begin meeting with representatives of *Verizon*, RCN and *Comcast* immediately to develop that concept plan. Ms. Eig stated that the Village currently has four (4) potential capital projects under consideration and advised that having information available regarding communication networks available is appropriate to decrease the likelihood of incurring multiple costs for the same project. Ms. Feldman, Mr. Yeo and Mr. Jones voiced their support for working with CTC in this area. Mr. Yeo added that he worries about the cost effectiveness to the Village. Mr. Biddle stated that there is currently money in the budget to cover the costs of contracting with CTC without needing a supplemental appropriation from reserves.

Ms. Stephens made a motion to authorize the Village Manager to utilize the current Montgomery County/CTC contract and to enter into a contract with *Columbia Telecommunications Corporation*. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Building Regulations Advisory Group

Mr. Biddle stated that the Advisory Group has been increased in size to 13 members; the first organizational meeting is set for January 16 at 7:30 p.m. Mr. Biddle explained that the new Advisory Group was formed by combining two (2) groups: the first group comprised of Village residents with expertise in architecture, design, building construction and real estate, and the second group comprised of Village residents sensitive to preserving Village neighborhood and community advantages. The Advisory Group would review the qualification materials of three (3) consultants with a professional focus on zoning, building design regulations and neighborhood conservation and would then make a recommendation to the Board. Dr. Kamerow recommended that the Advisory Group again be expanded to include other residents and Board members. Ms. Eig and Mr. Yeo volunteered to sit on the Advisory Group. Dr. Kamerow

recommended the appointment of Patricia Baptiste of 7 Grafton Street as Chair of the Advisory Group. Ms. Eig suggested that the Advisory Group be comprised of more residents and should be open to all residents. Dr. Kamerow stated that Village residents may attend all Village Committee meetings. Mr. Winstead added that regardless of the recommendations, the Board would have the authority to approve or disapprove any policy recommendations. Ms. Feldman stated she felt the Advisory Group needs to have resident involvement since these new regulations will directly affect the residents. Mr. Yeo suggested that the Board interview the consultants, choose the appropriate one, and then convene the Advisory Group.

Bob Stillman of 22 Primrose Street thanked the Board for addressing these issues. He added that it is important that the members of the Advisory Group are not conflicted by professional interests and cautioned that he felt builders, architects, and engineers cannot be trusted to be open-minded.

Mikol Neilson of 5614 Kirkside Drive said he felt that any individuals who have a direct financial gain within the Village should not be appointed to this group.

John Finneran of 16 Magnolia Parkway voiced his concerns with having architects and builders who work in the Village as members of the Advisory Group. He added that if architects and builders are included, they should have full disclosure including financial disclosure about the extent of their dealings within the Village.

Jane Roemer of 5402 Center Street stated the need to have a clear distinction between Advisory Group members who have interests in the Village and those who do not. Ms. Roemer added that there should be public forums where these issues can be discussed openly. Ms. Roemer stated that she does not agree that disclosure of conflicts will balance the situation.

Heloise Morgan of 5417 Center Street stated that the ordinances in the Village and the County are not clearly defined and leave much open to interpretation.

Dr. Kamerow stated that the next step should be to appoint additional members to the Advisory Group who would submit their requests for consideration to Mr. Biddle. The Advisory Group would have the charge to recommend a consultant who would then advise the Board on the best way to proceed further.

Mr. Yeo suggested creating a subcommittee of the Board to sit on the Advisory Group to lessen the issue of a conflict of interest because as elected officials leading the process the subcommittee would moderate the process. Dr. Kamerow asked Legal Counsel whether the Village has had subcommittees of the Board. Mr. Podolsky stated the Village does not have any standing subcommittees, however, the Board could create one.

Ms. Eig questioned the purpose of the Advisory Group's first meeting. Mr. Biddle stated that the first meeting was set to assemble the Advisory Group, to exchange ideas about the professional consultants' qualification materials that have been provided thus far, arrange for interviewing the three (3) candidates and then make its recommendation to the Board.

Ms. Stephens made a motion to approve the members of the Building Regulations Advisory Group as read by the Chair of the Board with the addition of three (3) Village residents who have volunteered to join the group. Ms. Feldman seconded the motion. Ms. Stephens and Ms. Feldman voted in favor of the motion. There were no further votes. The motion did not pass.

Carol Giacomo of 5412 Center Street stated that she was very alarmed that the Board is rushing to put the Advisory Group together, because the policies that they recommend are going to have a large effect on the future of the Village. Ms. Giacomo urged the Board to consider a moratorium while the Advisory Group begins its review of the ordinances and makes recommendations to the Board for action.

Joseph Marquette of 5412 Center Street suggested limiting membership on the Advisory Group to five (5) people who have architecture, building trades and civil engineering backgrounds.

Bliss Ryan of 5414 Grove Street stated that section 1A of the Village is the prime area for development and added that there is a need for an overall plan.

Ms. Roemer stated there are other areas of expertise that are available that need to be included such as urban planners.

Marilyn Montgomery of 5914 Cedar Parkway asked why builders were included in the Advisory Group when the mission of the Advisory Group should be to control the size of houses in the Village.

Dr. Kamerow recommended disbanding the current membership and that the Board should discuss the three (3) consultants at the February Board of Managers meeting. The Board agreed without a vote.

Alaster MacDonald of 21 West Kirke Street suggested that the Board pass a moratorium on any house teardowns until the Board and the Advisory Group have had time to discuss and begin to act on any Advisory Group's recommendations. Mr. Podolsky suggested that before the Board considers a moratorium certain legal issues should be discussed in an executive session. Discussion followed.

New Business

Grove Street Alley

Joan Churchill of 5612 Western Avenue summarized the request of abutting residents stating that they would like the alley to be placed on the paving schedule.

Dr. Kamerow asked if the Village had ever paved the alley. Mr. Biddle responded that during his tenure at the Village there was one experience in 2000 when a slurry seal was completed and there has been periodic snow plowing by Village staff. Mr. Biddle added that the alley is listed on the Maryland State Highway Administration map and that the Village receives funding for its maintenance.

Ms. Feldman asked if by paving and maintaining the alley the Village is creating a prescriptive easement or jeopardizing residents' property interests. Mr. Podolsky responded that if the Village maintains it and people drive through the alley the residents might lose the authority to block the alley. Dr. Kamerow and Mr. Yeo stated that the Village is already maintaining the alley in some capacity and should continue to maintain the alley. Mr. Biddle stated that the Village could continue to maintain and pave the alley. Mr. Podolsky stated that if the residents would like a written record stating that the Village would maintain the alley as a permanent record outside of the meeting minutes, the dedication of an easement by the property owners would be a means to create such a permanent record. This dedication would be in the land records. Discussion followed.

Federal Communications Commission News Release

Mr. Podolsky explained that the Federal Communications Commission (FCC) has adopted new rules that provide guidance on the interpretation of the Telecommunications Act. The Telecommunications Act states that a jurisdiction cannot unreasonably delay and cannot unreasonably condition the granting of a franchise. Mr. Podolsky stated that the Telecommunications Act states that it is public policy to allow competitive telecommunications service and encourages local governments to allow entrance to the telecommunication companies to provide competitive service.

Mr. Podolsky added that the FCC has not made copies of the new rules available for review; and stated that he would continue to keep the Board informed once copies of the new rules are made available. Discussion followed.

Resolution No. 01-01-07: Amendment of the Fee Schedule.

Mr. Biddle outlined the amendment stating that the previous tree removal permit fees were modified to \$50 per tree to cover the Village Arborist's time in the field. The office has received numerous requests for multiple tree removals, some in excess of fifteen (15) trees. The proposed amendment would set a \$350 ceiling for tree removal permits.

Ms. Eig suggested that the Board consider adding other tree diseases to the urban forest code. Discussion followed.

Mr. Jones made a motion to approve Resolution No. 01-01-07. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion.

Chairman's Report

None.

Manager's Report

Board Members Emails

Mr. Biddle stated that Village office is currently setting up a Board member email system.

Speed Bumps

Mr. Biddle stated that there might possibly be a couple of speed bump requests in the future. Mr. Biddle requested authorization to work with Legal Counsel to determine the correct procedure for receiving and administering these requests. Discussion followed.

Permit Parking Issues

Mr. Winstead asked for an update regarding permit-parking issues discussed at previous Board meetings. Mr. Biddle stated that while permit parking has been discussed, the office has yet to receive formal petitions from the residents to change hour restrictions for existing parking zones. Mr. Yeo reminded the Board that it had unanimously committed to review the permit parking zones within six (6) months after the completion of the Chevy Chase Center and that the Board should take an objective look to see if there is a problem.

Betty Tubbs of 5509 Montgomery Street stated that the residents have requested that something be done, however, this is the first she has heard of needing a formal request. Mr. Yeo commented that it is not fair to require residents in the 5500 block of Montgomery Street to re-file their petition.

Dr. Kamerow directed Mr. Biddle and the Chief of Police to compile a report on the permit parking issues for discussion at the February Board meeting. Discussion followed.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. Discussion followed.

Ms. Eig made a motion to adjourn the open meeting to meet in a closed session to consult with Legal Counsel to obtain legal advice regarding a possible moratorium. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 10:24 p.m.

Secretary, Chevy Chase Village Board of Managers

Final